

ARTICLE VII. ENERGY EFFICIENCY AN ENVIRONMENTAL DESIGN.*

***Editor's note**—2006 L.M.C., ch. 44, § 3, states: Applicability; initial regulations.

(a) Article VII of Chapter 8 of the County Code, as inserted by this Act, applies to any covered building, other than a County building, for which a building permit application is filed on or after the earlier of:

(1) one year after the regulations submitted under subsection (c) take effect; or

(2) September 1, 2008.

(b) Article VII applies to any County building for which design funding is first included in the appropriate capital budget for fiscal year 2008 or any later fiscal year, or, if design funding is not directly included in the capital budget, for which a building permit application is filed on or after the earlier of:

(1) one year after the regulations submitted under subsection (c) take effect; or

(2) September 1, 2008

However, notwithstanding Section 8-49(a), inserted by Section 1 of this Act, the Director may issue a building permit for any building for which design funding is first approved in the appropriate capital budget for fiscal year 2008 if that building achieves a certified-level rating or the equivalent, rather than a silver-level rating.

(c) By July 15, 2007, the County Executive must adopt, and submit to the Council under County Code Section 2A-15, regulations that specify the LEED rating system or any equivalent energy and environmental design standard that applies to each type of covered building.

Sec. 8-46. Short title.

This Article may be cited as the Montgomery County Green Buildings Law. ([2006 L.M.C., ch. 44, § 2.](#))

Sec. 8-47. Policy.

This Article is intended to protect the public health and welfare by requiring an integrated approach to planning, design, construction, and operation of a covered building and its surrounding landscape that helps mitigate the energy and environmental impacts of the building so that it is energy efficient, sustainable, secure, safe, cost-effective, accessible, functional, and productive. ([2006 L.M.C., ch. 44, § 2.](#))

Sec. 8-48. Definitions.

In this Article, in addition to any term defined elsewhere in this Chapter, the following words have the meanings indicated:

County building means any covered building for which the County government finances at least 30% of the cost of:

- (1) construction, for a newly constructed building; or
- (2) modification, for a building that is extensively modified.

Covered building means a newly constructed or extensively modified non-residential or multi-family residential building that has or will have at least 10,000 square feet of gross floor area.

Extensively modified refers to any structural modification which alters more than 50% of the building's gross floor area, as indicated on the application for a building permit. *Extensively modified* does not include any modification that is limited to one or more of the following building systems: mechanical; electrical; plumbing; heating, ventilation, and air conditioning (HVAC); and fire protection.

Green Building Council means the U.S. Green Building Council, an organization that has developed and published the LEED rating system to measure the energy and environmental performance of a building.

LEED refers to the series of Leadership in Energy and Environmental Design (LEED) rating systems developed by the Green Building Council.

LEED rating system means the particular LEED rating system that applies to a covered building, as specified in Executive regulations.

Multi-family residential building means any multi-family residential or mixed-use building that is taller than 4 stories. *Multi-family residential building* does not include a residential care or assisted living building which can house no more than 16 occupants.

Newly constructed refers to a new stand-alone building or an addition to an existing building. A *newly constructed* building includes any addition to or enlargement of an existing building, but does not include any change to an existing portion of a building.

Non-residential building means a building not used as a dwelling. *Non-residential building* does not include any:

- (1) day care center for 5 or fewer persons;
- (2) accessory building or structure;
- (3) agricultural building, stable, barn, or greenhouse;
- (4) parking garage that is not heated or cooled; or

(5) other building characterized as a miscellaneous building in the edition of the ICC International Building Code designated under Section [8-13](#). ([2006 L.M.C., ch. 44](#), § 2; [2008 L.M.C., ch. 7](#), § 2.)

Sec. 8-49. Standards and requirements.

(a) *County buildings.* Any County building must, in addition to any action required under Section [8-14A](#), achieve:

(1) a silver-level rating in the appropriate LEED rating system, as certified by the Green Building Council;

(2) a silver-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director; or

(3) energy and environmental design standards that the Director identifies as equivalent to a silver-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director.

(b) *Other covered buildings.* Any other covered building must achieve:

(1) a certified-level rating in the appropriate LEED rating system, as certified by the Green Building Council;

(2) a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director; or

(3) energy and environmental design standards that the Director identifies as equivalent to a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director.

(c) *Additions.* However, for any building for which an application for all necessary building permits was filed before September 1, 2008, any later addition to that building must achieve the requirements of a subsection (a) or (b), whichever applies, only if the addition would increase the building's:

(1) land coverage by at least 100%; and

(2) gross floor area by at least 10,000 square feet. ([2006 L.M.C., ch. 44](#), § 2; [2008 L.M.C., ch. 7](#), § 2.)

Sec. 8-50. Building permits.

(a) *Design plans.* The applicant for a building permit for a covered building must submit to the Department:

(1) design plans for the building that are likely to achieve the applicable standard under Section [8-49](#)(a) or (b), whichever applies, as certified or otherwise approved by the Green Building Council or verified by the Director or a qualified person designated by the Department; and

(2) any other document or information the Department finds necessary to decide whether the building will achieve the applicable standard under Section [8-49](#).

(b) *Building permit.* The Department must require compliance with Section [8-49](#) as a condition of any building permit issued for a covered building.

(c) *Final use and occupancy certificate.* The Department must not issue a final use and occupancy certificate for a covered building unless it finds that the building has achieved the applicable standard under Section [8-49](#). ([2006 L.M.C., ch. 44, § 2](#); [2008 L.M.C., ch. 7, § 2.](#))

Sec. 8-51. Regulations.

The County Executive must adopt regulations under method (2) to administer this Article. Those regulations must specify:

(a) the LEED rating system, and any equivalent energy and environmental design standard, that applies to each type of covered building under Section [8-49](#)(a) and (b).

(b) the process to verify that a covered building complies with any applicable standard under Section [8-49](#), including the types of persons who are qualified to verify compliance;

(c) any standards and procedures under which the Director may approve full or partial waivers of Section [8-49](#) when compliance would be impractical or unduly burdensome and the public interest would be served by the waiver; and

(d) standards and procedures for any enforcement mechanism, such as a performance bond, that the Department finds necessary to accomplish the purposes of this Article. ([2006 L.M.C., ch. 44, § 2](#); [2008 L.M.C., ch. 7, § 2.](#))

Sec. 8-52. Report.

The Director must submit to the Executive and Council, not later than March 1 of each year, a list of each waiver of the requirements of this Article that the Director approved during the preceding calendar year and any condition attached to that waiver. ([2006 L.M.C., ch. 44, § 2.](#))

Sec. 8-53. ASHRAE/USGBC/IESNA standards.

(a) Definitions.

“ASHRAE/USGBC/IESNA Standard 189.1” means the standard for high-performance green buildings developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, the U.S. Green Buildings Council, and the Illuminating Engineering Society of North America.

(b) The Sustainability Working Group must:

(1) evaluate the costs and benefits of adopting the ASRAE/USGBVC/IESNA Standard 189.1; and

(2) recommend to the County Executive and County Council by January 15, 2009, whether the County should adopt the ASHRAE/USGBC/IESNA Standard 189.1, particularly the energy efficiency section, or any other building performance standard. ([2008 L.M.C., ch. 7, § 3.](#))